

SUMMARY REPORT OF KENTUCKY BOARD OF NURSING ADVISORY OPINIONS ON NURSING PRACTICE ISSUES

July 1, 2006 – June 30, 2007

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Advisory Opinion Statements – Revised

- AOS #08 entitled, "Role of Registered Nurse First Assistant" (4/2007)
- AOS #10 entitled, "Roles of Nurses in the Care of Intrapartum Patients" (4/2007)

Advisory Opinion Statements – Draft

- AOS #35 Draft entitled, "Cosmetic and Dermatological Procedures by Nurses" has been placed on the KBN website. The Practice Committee requested review and comments by July 31, 2007.

The primary mission and purpose of the Board is to enforce public policy related to the safe and effective practice of nursing in the interest of public welfare. As a regulatory agency of state government, the Board of Nursing accomplishes this mission as authorized by Kentucky Revised Statutes (KRS) Chapter 314—The *KENTUCKY NURSING LAWS* and attendant administrative regulations. In accomplishing one aspect of the mission, the Board of Nursing issues advisory opinions on what constitutes the legal scope of nursing practice.

An opinion is not a regulation of the Board; it does not have the force and effect of law. Rather, an opinion is issued as a guidepost to licensees who wish to engage in safe nursing practice.

KRS 314.011(6) defines "registered nursing practice" as:

...The performance of acts requiring substantial specialized knowledge, judgment, and nursing skill based upon the principles of psychological, biological, physical, and social sciences in the application of the nursing process in:

- a) The care, counsel, and health teaching of the ill, injured or infirm.
- b) The maintenance of health or prevention of illness of others.
- c) The administration of medication and treatment as prescribed by a physician, physician assistant, dentist, or advanced registered nurse practitioner and as further authorized or limited by the board, and which are consistent either with American Nurses' Association Standards of Practice or with Standards of Practice established by nationally accepted organizations of registered nurses. Components of medication administration include, but are not limited to:
 1. Preparing and giving medication in the prescribed dosage, route, and frequency, including dispensing medications only as defined in subsection (17)(b) of this section;
 2. Observing, recording, and reporting desired effects, untoward reactions, and side effects of drug therapy;

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3. Intervening when emergency care is required as a result of drug therapy;
 4. Recognizing accepted prescribing limits and reporting deviations to the prescribing individual;
 5. Recognizing drug incompatibilities and reporting interactions or potential interactions to the prescribing individual; and
 6. Instructing an individual regarding medications.
- d) The supervision, teaching of, and delegation to other personnel in the performance of activities relating to nursing care.
 - e) The performance of other nursing acts which are authorized or limited by the board, and which are consistent either with American Nurses' Association Standards of Practice or with Standards of Practice established by nationally accepted organizations of registered nurses.

KRS 314.011(10) defines "licensed practical nursing practice" as:

...The performance of acts requiring knowledge and skill such as are taught or acquired in approved schools for practical nursing in:

- a) The observing and caring for the ill, injured, or infirm under the direction of a registered nurse, licensed physician, or dentist.
- b) The giving of counsel and applying procedures to safeguard life and health, as defined and authorized by the board.
- c) The administration of medication or treatment as authorized by a physician, physician assistant, dentist, or advanced registered nurse practitioner and as further authorized or limited by the board which is consistent with the National Federation of Licensed Practical Nurses or with Standards of Practice established by nationally accepted organizations of licensed practical nurses.
- d) Teaching, supervising, and delegating except as limited by the board.
- e) The performance of other nursing acts which are authorized or limited by the board and which are consistent with the National Federation of Licensed Practical Nurses' Standards of Practice or with Standards of Practice established by nationally accepted organizations of licensed practical nurses.

KRS 314.021(2) states: All individuals licensed under provisions of this chapter shall be responsible and accountable for making decisions that are based upon the individuals' educational preparation and experience in nursing and shall practice nursing with reasonable skill and safety.

KRS 314.021(2) imposes individual responsibility upon a nurse to undertake the performance of acts for which the nurse is educationally prepared and clinically competent to perform in a safe, effective manner. This section holds nurses individually responsible and accountable for rendering safe, effective nursing care to clients and for judgments exercised and actions taken in the course of providing care.

Acts that are within the permissible scope of practice for a given licensure level may be performed only by those licensees who personally possess the education and experience to perform those acts safely and competently. A nurse/licensee who doubts his/her personal competency to perform a requested act has an affirmative obligation to refuse to perform the act, and to inform his/her supervisor and the physician prescribing the act, if applicable, of his/her decision not to perform the act.

If a licensee accepts an assignment that the licensee believes is unsafe or for which the licensee is not educationally prepared, then the licensee also assumes the potential liability, which may occur as a result of the assignment. Others may equally or concurrently be responsible, accountable, and liable for a licensee's actions. Practice should be consistent with the *Kentucky Nursing Laws*, established standards of practice, and be evidenced based.

The Board has published "Scope of Practice Determination Guidelines" as a decision making model for an individual licensee to use in determining whether the performance of a specific act is within the scope of practice for which the individual is educationally prepared, clinically competent and licensed to perform. Individuals are encouraged to utilize the "Guidelines" in making decisions as to whether he/she should or should not perform a particular act. A copy may be obtained from the Board office, or from the Board's website at <http://kbn.ky.gov>.

The responsibilities which any nurse can safely accept are determined by the variables in each nursing practice setting. These variables include:

1. The nurse's own qualifications including:
 - a. basic prelicensure educational preparation;

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- b. knowledge and skills subsequently acquired through continuing education and practice; and
- c. current clinical competence.
2. The "standard of care" which would be provided in similar circumstances by reasonable and prudent nurses who have similar training and experience.
3. The complexity and frequency of nursing care needed by a given client population.
4. The proximity of clients to personnel.
5. The qualifications and number of staff.
6. The accessible resources.
7. The established policies, procedures, standards of practice, and channels of communication which lend support to the types of nursing services offered.

To date, the Board has published 34 advisory opinion statements, as listed on the "Kentucky Board of Nursing Publications" form and on the KBN website at <http://kbn.ky.gov>. Advisory opinion statements are developed and published when:

1. Multiple inquiries are received regarding a specific nursing procedure or act;
2. The Practice Committee determines that a specific nursing procedure or act has general applicability to nursing practice and warrants the development of an opinion statement; or
3. The Board directs that an opinion statement be developed.

When studying issues, the Board reviews and considers applicable standards of practice statements published by professional nursing organizations; the educational preparation of both registered and licensed practical nurses as provided in the prelicensure nursing education programs in the Commonwealth; and, when applicable, the organized post-basic educational programs for advanced registered nurse practitioners. The Board also gathers information regarding practice issues from nurses in relevant practice settings (including staff nurses, supervisors, nurse faculty members, etc.) and/or representatives from state nursing associations in the Commonwealth, among others. Further, the Board reviews applicable opinions issued by the Office of the Attorney General.

In addition to the 34 advisory opinion statements published as of June 30, 2006, the Board has issued from July 1, 2006 to June 30, 2007, individual advisory opinions in response to inquiries on specific nursing practice situations, summarized as follows:

1. Delegation to Unlicensed Assistive Personnel

December 2006 – The Board reaffirmed its advisory opinion that based upon 201 KAR 20:400, a nurse should not delegate sterile urinary catheterization to unlicensed assistive personnel. It was the advisory opinion of the Board that using 201 KAR 20:400, a nurse may delegate to educationally prepared and clinically competent unlicensed nursing assistive personnel, the removal of a peripheral intravenous catheter. A peripheral catheter is defined as being three inches or less in length.

2. Scope of Licensed Practical Nursing Practice, Home Health Care

December 2006 – It was the advisory opinion of the Board that It is within the scope of licensed practical nursing practice for the LPN to provide the "observation and assessment" benefit component associated with the Medicare Home Health Agencies Conditions of Participation (skilled nursing services) 42 CFR 484.30, Section 484.30(a), under the direction of a registered nurse who performs the registered nursing acts also delineated in this CFR section.

3. Scope of Licensed Practical Nursing Practice, "Doctor's On Call Answering Service"

December 2006 – It was the advisory opinion of the Board that while the Board does not regulate businesses established by nurses, the Board has determined that it is **not** within the scope of licensed practical nursing practice to act as an intermediary of a physician in a manner that requires the nurse to determine a patient's medical diagnosis and subsequently issue a prescribed treatment plan.

4. Emergency Use of Nursing Students in Avian Flu Pandemic

December 2006 - It was the consensus of the Board that the following statement be disseminated to emergency preparedness agencies as needed: The Kentucky Board of Nursing supports the use of prelicensure nursing students to help supplement medical activities during a disaster, pandemic or any major event that precipitates medical surge across the state. Such students may function at the level of their educational preparation and/or as personnel who could be further trained to assist in providing health related services.

5. Scope of Registered Nursing Practice, Certification of “False Labor”

December 2006 – Recognizing the term “false labor” as a term common to both nursing and medical practice, it was the advisory opinion of the Board that the certification of false labor is within the scope of registered nursing practice. The registered nurse, as a qualified medical person, must be educationally prepared and clinically competent in the determination of false labor, and would perform this act according to established protocol officially approved by the facility’s medical and nursing staff.

KRS 314.021(2) imposes individual responsibility upon nurses. Acts which are within the permissible scope of practice for a given licensure level may be performed only by those licensees who personally possess the education and skill proficiency to perform those acts in a safe, effective manner. Nursing practice should be consistent with the *Kentucky Nursing Laws*, established standards of practice, and be evidence based.

KRS 314.021(2) holds all nurses individually responsible and accountable for the individual's acts based upon the nurse's education and experience. Each nurse must exercise professional and prudent judgment in determining whether the performance of a given act is within the scope of practice for which the nurse is both licensed and clinically competent to perform.

6. Pre-Anesthesia Screening Evaluation by ARNP and/or RN

December 2006 – It was the advisory opinion of the Board that it is within the scope of practice for the advanced registered nurse practitioner (ARNP) to compile a patient’s comprehensive medical history, conduct physical examination, and record findings. Further, it is within the scope of the ARNP to diagnose and treat according to his/her educational preparation, clinical competency, certification, scope and standards of practice, and collaborative agreements.

The compilation of a patient’s comprehensive medical history and performance of a physical examination are within the scope of registered nursing practice for the RN who is educationally prepared and currently clinically competent in the performance of the procedures. The RN distinguishes normal from abnormal findings, documents the findings (including signs and symptoms) and reports the findings to a medical provider, but does not formulate a medical diagnosis nor prescribe a medical treatment plan.

Subsequently, the performance of a pre-anesthesia screening evaluation, for the purpose of obtaining a medical history and physical examination is within the scope of registered nursing practice. The RN would document/report the findings, but cannot formulate any medical diagnosis or make medical decisions regarding the status of the patient. A pre-anesthesia screening performed by a RN does not substitute for the standard pre-anesthesia assessment performed by the involved anesthesia provider nor the required history and physical examination performed by the surgeon.

7. Scope of Nursing Practice in Acute Care Hospital Settings

February 2007 - The Kentucky Board of Nursing has published Advisory Opinion Statement (AOS) #27 entitled “Components of Licensed Practical Nursing Practice.” This AOS references the statutory definitions of “nursing process,” “registered nursing practice,” and “licensed practical nursing practice,” and contains guidelines for safe practice. Based upon the *Kentucky Nursing Laws*, the LPN practices under the direction of a RN, physician, or dentist. It is the advisory opinion of the Board that “direction” means communicating a plan of care to a LPN. The RN directs/assigns the LPN in the performance of nursing care for individuals or a group of individuals within the legal scope of licensed practical nursing practice. It is the responsibility of the RN to know that the LPN has the appropriate education and training and has demonstrated competency in all aspects of nursing that the LPN is directed/assigned to perform. In addition, the LPN is individually accountable and responsible for his/her own knowledge and skill. It is the RN's responsibility to provide appropriate supervision of the LPN's provision of care. This supervision includes initial and ongoing direction, procedural guidance, observation and evaluation of the provision of care.

Consistent with the *Kentucky Nursing Laws* and AOS #27, the Cabinet for Health and Family Services (CHFS), Office of the Inspector General, has promulgated a Kentucky Administrative Regulation governing hospital operations and services (902 KAR 20:016). This regulation contains requirements for the provision of nursing services, which state in part:

- ...There shall be registered nurse supervision and staff nursing personnel for each service or nursing unit to insure the immediate availability of a RN for all patients on a twenty-four hour basis.
- ...Patient care shall be carried out in accordance with...nursing process, and nursing care procedures....

- A RN shall assign staff and evaluate the nursing care of each patient in accordance with the patient's need and the nursing staff available.
- Nursing notes shall be written and signed on each shift by persons rendering care to patients...

In Kentucky, the scope of licensed practical nursing practice is defined by content taught within approved Kentucky practical nursing educational programs. The core curriculum includes essential content for basic health assessment. The practical nursing student is taught to collect objective and subjective data; identify normal from abnormal in each of the body systems; and to identify changes in the patient's condition which are then reported to the RN or physician/ARNP. The analysis of the data and formulation of the plan of nursing care is the RN's responsibility. The LPN contributes to the established plan of care through systematic basic health assessment and data collection. In Kentucky, licensed practical nurses practice under the direction of a RN, physician or dentist, and the scope of practice does include patient/client basic assessment/data collection within their knowledge, abilities and skills.

The information on the degree of supervision required for licensed practical nursing practice is provided in AOS #27, Page 4, C, 2. The Board has not specified time intervals for onsite supervision in various health care settings/agencies; however, it is within the purview of the agency to establish written approved policies and procedures which define time intervals, and which are consistent with established standards of practice and evidence based practice.

8. Application of Suprapubic Pressure and Fundal Pressure by Nurses

April 2007 – It was the advisory opinion of the Board that the registered nurse may NOT apply fundal pressure during the second stage of labor including but not limited to the following clinical circumstances: a) in the presence of a non-reassuring fetal heart rate pattern, b) maternal exhaustion, or c) in instances of shoulder dystocia.

Under specified conditions, it is within the scope of registered nursing practice for a labor and delivery RN to perform fundal pressure and suprapubic pressure when stipulations for safe practice are present, as listed below. The performance of such pressures is not within the scope of licensed practical nursing practice. It is the advisory opinion of the Board that a RN may apply suprapubic pressure during the vaginal delivery of a fetus with suspected shoulder dystocia or breech delivery. A RN may apply gentle fundal pressure for the purposes of preventing the upward displacement of the presenting part during fetal scalp electrode placement, and during an amniotomy when the vertex presentation is not ballotable. A RN, who is scrubbed and is a member of the surgical team, may apply fundal pressure during a cesarean section.

As referenced above, the Board advises that stipulations for safe practice include but are not limited to the following:

- a. The RN is educationally prepared and clinically competent in the performance of the procedures. The educational preparation should include but not be limited to instruction in the application of and rationale for the procedures and how the procedures differ. The educational preparation for performance of pressures is directed by a licensed health care professional, such as a licensed physician with substantial specialized knowledge, judgment and skill related to obstetrics, or an ARNP designated nurse midwife, or a RN with documented clinical knowledge and competency in the application of pressure.
- b. For each RN expected to perform pressures, the facility maintains written documentation of each RN's initial and continued competency to perform pressures.
- c. The registered nurse practices according to *Kentucky Nursing Laws*, generally accepted standards of care, and evidence based practice.
- d. A licensed physician or an ARNP designated nurse midwife is present in the room and directing the performance of pressure.
- e. All necessary resources are available.
- f. The facility/agency has detailed policies and procedures in place addressing all aspects of this issue to include but not limited to specific guidelines/criteria for these procedures and a mechanism of data collection for quality control.
- g. The facility's policy and procedures is reviewed and approved by the Departments of Nursing and Medicine both initially and at planned periodic intervals.
- h. The labor and delivery RN documents the performance of pressure and the results of its application in the maternal medical record.

It is inappropriate for a RN to perform suprapubic pressure or fundal pressure when the application of these technical procedures is beyond the parameters of the RN's education, capabilities or experiences. Although

the determination of medical procedures and patient's medical status is a medical decision, the RN has the right and the obligation to question orders and decisions which are contrary to acceptable standards and to refuse to participate in procedures which may result in harm to the patient.

9. Teaching Unlicensed Assistive Personnel Medication Administration Curriculum – Scope of Licensed Practical Nursing Practice

April 2007 – It was the advisory opinion of the Board that teaching unlicensed assistive personnel to administer oral and topical medications as delegated and supervised by a nurse, is within the scope of registered nursing practice, and not within the scope of licensed practical nursing practice. It is within the scope of practice for a LPN to assist a RN or physician in this activity and to reinforce the educational activities taught in the program.

10. Medication Administration by Unlicensed Assistive Personnel – Informational Item

The Kentucky Board of Nursing has approved the establishment of a “Task Force on Medication Administration by Unlicensed Assistive Personnel.” This group is being formed to assist the Board in the identification and exploration of issues, and future planning, surrounding medication administration by unlicensed assistive personnel.

The Board continues to receive multiple inquiries and concerns from various individuals on the use of unlicensed personnel in the provision of nursing care, and specifically on the administration of medications, in various settings and situations in the Commonwealth. The task force will be advisory to the Board's Practice Committee in the development of a position paper that will be presented to the Board for review and adoption. Due to the scope of the issues to be considered in developing a comprehensive position paper, we anticipate forming one or more subgroups under the direction of the task force to address specific areas where unlicensed personnel have responsibility for medication administration.

11. Placement of a Magnet Nasal Tube Retaining Device

June 2007 - It was the advisory opinion of the Board that the placement and removal of a nasal tube retaining device/system (such as the AMT Bridle®--a magnetic retrieval system) used to prevent nasal tube pullouts, is within the scope of registered nursing practice. The registered nurse would place the device only after a physician/ARNP has completed an individual assessment of the patient and issued medical authorization for its placement. Following placement, the patient should be reassessed by a physician/ARNP to assure its correct placement and that no complications have occurred. The registered nurse who places and/or removes a nasal tube retaining device must possess the requisite educational preparation and current clinical competence to perform the procedure in a safe, competent manner.

12. Completion of an “Inpatient Rehabilitation Facility – Patient Assessment Instrument” (IRF-PAI)

June 2007 - It was the advisory opinion of the Board that participation in data collection and inputting of data into the “DHHS, Centers for Medicare and Medicaid Services, Inpatient Rehabilitation Facility – Patient Assessment Instrument” is within the scope of licensed practical nursing practice. The licensed practical nurse practices under the direction of a registered nurse and must possess the requisite educational preparation and current clinical competence to perform the acts in a safe, competent manner.

13. Application of Deep Oscillation/Hivamat®200

June 2007 - Following the acquisition of scientific information to support the use of “Deep Oscillation®/Hivamat®200,” it would be within the scope of nursing practice to apply this modality, when it is prescribed by a physician for an individual patient.

The nurse who would apply this equipment must be educationally prepared and clinically competent in its application. The prescribing physician should provide the client with sufficient information about the treatment modality in order for the client to give informed consent as needed.

All advisory opinion statements may be obtained from the KBN office or from the KBN website at <http://kbn.ky.gov>.

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